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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,571	07/16/2003	E. Michael Ackley JR.	02280.002470.1	7101
5514	7590	09/07/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			YAN, REN LUO	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2854	
DATE MAILED: 09/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,571

Applicant(s)

ACKLEY ET AL.

Examiner

Ren L. Yan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-35, 38 and 43-46 is/are rejected.
- 7) ☒ Claim(s) 36, 37 and 39-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-35 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al((6,267,997).

WO 91/01884 teaches an apparatus for forming a registered image on a non-planar printing surface of a shaped edible piece 10 as claimed including a transport surface 22 with at least one shaped recess 23 having a non-planar surface corresponding to the shaped edible piece and a vacuum hole 29 positioned within and at the deepest portion of the shaped recess for holding the edible piece 10 laterally, longitudinally and rotationally within the shaped recess at a predetermined position, a first offset printer station 35 at a first position along a transport path that forms a first component image on the shaped piece while in the predetermined position, a second printer station 41(laser marking system 41) downstream from the first printer station that forms a second component of the composite image on the edible piece 10 in registration with the first component image of the composite image, and a vacuum pump to supply vacuum to the vacuum hole 29 to maintain the edible piece in the predetermined position within the recess while the edible piece is at and between the first and second print stations such that multiple printing operations can be performed in proper registration on the edible piece. See Figs. 1-3 and pages 8 and 9 of WO 91/01884 for details. It should be pointed out that laser marking

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(engraving or etching) is a form of printing well accepted in the printing art. However, in the event that the first and second component of the composite image being printed on the edible piece should be interpreted to be of two different colored ink, the patent to Ream et al is applied to teach the conventionality of printing on edible pieces a composite image formed with first and second components of colored ink in proper registration by first and second printers 32. See Figs. 10, 11, column 5, lines 12-15 and column 8, lines 46-59 in Ream et al for example. It would have been obvious to one of ordinary skill in the art to provide the printing apparatus of WO 91/01884 with a second edible ink printing device appropriately disposed as taught by Ream et al in order to form a multicolor ink composite image on the edible piece. With respect to claim 34, the edible piece 10 of WO 91/01884 has a non-planar portion that protrudes above the transport surface as recited.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al as applied to claim 33 above, and further in view of Yamamoto et al(5,423,252).

WO 91/01884, as modified by Ream et al, teach all that is claimed except that it does not show a vacuum plenum system as recited. Yamamoto et al teach a printer for printing on tablets and capsules the conventional use of a vacuum plenum system disposed between the shaped recesses and the vacuum pump 133 and below the transport path. See Figs. 1 and 2 in Yamamoto et al for example. It would have been obvious to those having ordinary skill in the art to provide the printing apparatus of WO 91/01884, as modified by Ream et al, with a vacuum plenum system appropriately disposed as taught by Yamamoto et al in order to facilitate maintaining the edible piece in position during the transport and printing operations.

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Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al as applied to claim 33 above, and further in view of Emerson(2,613,594).

WO 91/01884, as modified by Ream et al, teaches all that is claimed except for the recess portion having a resilient portion. Emerson teaches a printer using a recess for transporting articles to be printed including a resilient portion 74 formed on the recess portion. See Fig. 6 in Emerson for example. It would have been obvious to one of ordinary skill in the art to provide the recess of WO 91/01884, as modified by Ream et al, with a resilient portion as taught by Emerson so as to provide a cushioning effect to the edible piece during the printing operation.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al as applied to claim 33 above, and further in view of Matsuoka(4,619,196).

With respect to claim 44, WO 91/01884 does not show a multi-lane system and does not disclose the total output per lane per hour. Ream et al teach to print 120 impressions per minute which is way beyond the 1,000 pieces per hour print output as recited. However, Ream et al do not show a multi-lane system. Matsuoka teaches the use of a multi-lane system for the tablet printer as shown in Fig. 6 to achieve more print output than the single lane system. It would have been obvious to those having ordinary skill in the art to provide the printing apparatus of WO 91/01884, as modified by Ream et al with a multi-lane system appropriately disposed as taught by Matsuoka in order to increase the print output.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al as applied to claim 33 above, and further in view of Ackley (4,905,589).

WO 91/01884, as modified by Ream et al, teaches all that is claimed except for the use of an inkjet printer. The use of inkjet printer to print on shaped articles has been well known. The

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patent to Ackley teaches the conventional use of an inkjet printer 6 for printing on tablets 25. see Fig. 2 in Ackley for example. It would have been obvious to those having ordinary skill in the art to provide the printing apparatus of WO 91/01884, as modified by Ream et al, with the digitally controlled inkjet print heads as taught by Ackley in order to precisely print a color image on the edible piece.

Claims 36, 37 and 39-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

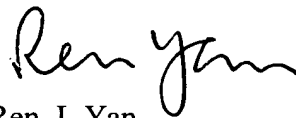
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ren L. Yan whose telephone number is 571-272-2173. The examiner can normally be reached on 8:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 571-272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ren L Yan
Primary Examiner
Art Unit 2854

Ren Yan
September 1, 2005